

Chairperson John R. Clark  
Vice-Chairperson Michael Parks  
Parliamentarian Don Maxwell



Commissioners  
Michael Beckendorf  
John Bond  
Helen Chavarria  
Ralph Davila  
Robert Horton  
G.H. Jones

## **AGENDA**

**BRYAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
THURSDAY, OCTOBER 23, 2008  
AT 6:00 P.M.  
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING  
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

**Disclaimer:**     *The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

### **1. CALL TO ORDER.**

Chairperson Clark called the regular meeting to order at 6:04 p.m.

<b>Commissioners</b>	<b>Present</b>	<b>2008 Regular Meetings Held</b>	<b>2008 Regular Meetings Attended</b>	<b>Regular Meetings Held During Last 6 Months</b>	<b>Regular Meetings Attended During Last 6 Months</b>
Michael Beckendorf	Yes	19	15	11	10
Johnny Bond	Yes	19	19	11	11
Helen Chavarria	Yes	19	16	11	9
John R. Clark	Yes	19	18	11	10
Ralph Davila	Yes	19	17	11	9
Robert Horton	Yes	19	16	11	11
G. H. Jones	Yes	19	18	11	10
Don Maxwell	Yes	19	14	11	9
Michael Parks	Yes	19	15	11	10

Staff members present: Mr. Martin Zimmermann, Planning Administrator; Ms. Julie Fulgham, Project Planner; Mr. Randy Haynes, Staff Planner; Mr. Dale Picha, Director of Traffic and Transportation; Mr. Lee Veness, Assistant City Attorney; Mr. Joe Seago, Jr., Assistant City Engineer and Ms. Kelli Hill, Planning Intern.

## **2. HEAR CITIZENS.**

Mr. Leonard Morehead, 911 Lazy Lane, Bryan, came forward to speak about annexation. He presented handouts to the Commission which included pictures of his property. He stated that would like to understand the City's justification in annexing his property.

## **3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.**

Mr. Veness advised that Commissioner Parks had filed an affidavit in response to state law on disclosure of local official's conflict of interest regarding regular agenda item #7 (Planning Variance PV08-30). Commissioner Parks will not participate in deliberation or voting on the Item.

Mr. Veness advised that Commissioner Horton had filed an affidavit in response to state law on disclosure of local official's conflict of interest regarding regular agenda item #8 (Planning Variance PV08-32). Commissioner Horton will not participate in deliberation or voting on the Item.

## **4. CONSENT AGENDA.**

### **A. Approval of meeting minutes from the workshop and regular meetings on September 18, 2008.**

**Commissioner Jones moved to approve the Consent Agenda. Commissioner Beckendorf seconded the motion.**

Chairperson Clark asked if there was any discussion. There was none.

**The motion passed with a unanimous vote.**

## **5. Rezoning RZ08-19: S.O.S. Ministries, Inc.**

**M. Zimmermann**

*A request to change the zoning classification from Residential District – 5000 (RD-5) to Planned Development – Mixed Use District (PD-M) on 20.61 acres of vacant and out of Zeno Phillips League, A-45 adjoining the west side of Groesbeck Street between Palasota Drive and Richard Street in Bryan, Brazos County, Texas.*

Mr. Zimmermann presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- Staff contends that, with the proposed limitations on land use and physical development, including buffer areas, façade improvements and required screening, future use of this site for programs and activities targeting at-risk youth and adults can be successfully integrated within the fabric of this particular neighborhood,
- Approving this zoning district at this location should not affect the developability of other properties in this vicinity or elsewhere in the city,
- Use and development proposed at this location, if limited to educational vocational training and rehabilitation programs and associated accessory uses, will generally be compatible with existing and anticipated uses surrounding this property and will have minimal (if any) adverse impacts on nearby property and the City as a whole, and

- The proposed use and development of this property with facilities for educational vocational training and rehabilitation programs will neither adversely affect health, safety, morals, or general welfare nor be materially injurious to properties or improvements in the vicinity.

Responding to a question from Commissioner Maxwell, Mr. Zimmermann stated that the only allowed use on the property would be educational vocational training and rehabilitation facilities and any associated uses; for example, a basketball court or a restaurant where youth or adults enrolled in the program would be able to sell food they prepared.

Responding to a question from Commissioner Parks, Mr. Zimmermann stated that the proposed buffer meets all requirements, and that as each phase develops a site plan showing the appropriate landscaping requirements must be submitted.

Responding to questions from Commissioner Davila, Mr. Zimmermann stated that City standards require sidewalks along Groesbeck Street as part of site plan approval.

The public hearing was opened.

Mr. J.J. Ramirez, 103 Brookside Drive West, Bryan, director and founder of SOS Ministries, came forward to speak in favor of the request. He stated that SOS Ministries has worked in the community for over 15 years, and that he believes this is a strategic area for reaching the population. He stated that he hopes to open as soon as possible, and that this location will allow them to double in size.

Responding to a question from Commissioner Davila, Mr. Ramirez stated that some of the development plan was used from the Texas A&M University project, but that some was changed because of cost.

Commissioner Jones asked if SOS Ministries had received any grant money. Mr. Ramirez stated that he had not.

The public hearing was closed.

**Commissioner Parks moved to recommend approval of Rezoning RZ 08-19 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Chavarria seconded the motion.**

Commissioner Davila stated that this facility will be a good thing for the community and the area.

Commissioner Chavarria agreed with Commissioner Davila.

Commissioner Parks stated that this is a good example of infill development.

**The motion passed with a unanimous vote.**

#### **6. Conditional Use Permit CU08-10: Burton Creek Development, Ltd.**

**M. Zimmermann**

*A request for approval of a Conditional Use Permit to allow to allow nine clusters of townhouses on property in a Residential District – 5000 (RD-5), specifically on 6.7 acres of vacant land out of John Austin Survey, A-2 located northeast from the intersection of Ella Lane and Peterson Way, north of Red River Drive in Bryan, Brazos County, Texas in Bryan, Brazos County, Texas.*

Mr. Zimmermann presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- The proposed townhouse development will conform to all applicable regulations and standards established by the Zoning Ordinance and the Land and Site Development Ordinance, and no variations from existing standards are being requested,
- The proposed arrangement of townhouses on the subject property will be compatible with existing or permitted uses on abutting sites, most of which are currently in single-family residential use or intended for low density residential use,
- The proposed arrangement of townhouses at this location should not have any adverse effects on vehicular and pedestrian traffic in this vicinity, and
- The proposed development of this property with townhouses will have few (if any) ill effects on properties or improvements in the vicinity.

Responding to questions from Commissioner Clark, Mr. Zimmermann stated that the changes from the current site plan would require a new conditional use permit approval.

Commissioner Parks asked Mr. Zimmermann to address the issue of off-street parking. Mr. Zimmermann stated that the townhomes will be required to provide adequate off-street parking, presumably with one parking spot in front of the dwelling and one in a garage.

The public hearing was opened.

Mr. Chris Peterson, 3702 Oakridge Street, Bryan, representing the applicant, came forward to speak in favor of the request. He stated that this development is part of a bigger residential area that is an age-restricted neighborhood. He said that there are 40 townhome units proposed, all two bedroom, two bathroom units with garages. They are located along two cul-de-sacs, and between those there is a pipeline easement which he plans to give to the City as a parkland dedication and create a walking trail.

Responding to a question from Commissioner Maxwell, Mr. Peterson stated that they are proposing to construct a couple of public parking areas for access to the walking trails, but that those may change because of negotiations with the pipeline company. He also stated that the parkland dedication will take place after the construction of the walking trails.

Mr. Sonny McSpadde, 1901 Debbie Drive, Bryan, came forward to discuss the proposal. He stated that while he was not objecting to this development, he wanted to know if privacy fences will exist on this property. He also wanted to ask if there was a guarantee that a grandparent could not buy one of the units and let students live in it. He further expressed concerns about traffic increases on Red River Road and Debbie Drive after Nash Street is opened.

Mr. Peterson stated that privacy fences would probably be constructed around the townhomes, and that the deed restrictions on the other phases limit who may occupy a house, not just who purchases the house and that this restriction is enforceable by any individual lot and the homeowner's association.

*Commissioner Parks left the meeting at 6:43 p.m. and did not return, a quorum still being present.*

Ms. Martha McSpadde, 1901 Debbie Drive, Bryan, came forward to reiterate her husband's concern about the increase in traffic on Debbie Drive once Nash Street is opened.

Chairperson Clark advised her to speak to City staff about that issue.

The public hearing was closed.

**Commissioner Maxwell moved to approve Conditional Use Permit CU 08-10, and to adopt the written analysis and recommendation, as presented to the Planning and Zoning Commission, as the written findings and written special conditions required under Section 130-33 of the Bryan Code of Ordinances. Commissioner Jones seconded the motion.**

Chairperson Clark stated that creating a walking trail was a creative use of the easement on the property.

**The motion passed with a unanimous vote.**

**7. Planning Variance PV08-30: Andres Martinez**

**J. Fulgham**

*A request for approval of a 10-foot variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts of Bryan, to legitimize previous construction of a carport that extends within 15 feet from the front property line on property at 4102 Meadowbrook Drive between Green Valley Drive and Oak Cliff Circle, specifically occupying Lot 2 in Block 8 of Wheeler Ridge Subdivision – Phase 1 in Bryan, Brazos County, Texas.*

Ms. Fulgham presented a staff report (on file in the Development Services Department). Staff recommends denying the request based on the following findings:

- Approving this request might set an unwanted precedent in this area, and the long-term result then may be an undesirable overcrowding of land with building mass within the Wheeler Ridge Subdivision,
- Granting this variance request in the absence of any special conditions which create an unnecessary hardship could have the long-term effect of destabilizing this established neighborhood, and
- The public benefit from continued compliance with minimum building setback standards is greater than requiring the applicant to remove the noncompliant carport that is merely attached to the ground, and enforcing the minimum required building setbacks provides an assured minimum of open space in neighborhoods.

Responding to questions from Commissioner Davila, Ms. Fulgham stated that the applicant purchased the carport in 2001. She stated that open space is desirable in single family neighborhoods and is achieved through setback requirements. She stated that allowing carports to encroach into open space will lead to the undesirability of the neighborhood to potential buyers.

Responding to a question from Commissioner Jones, Ms. Fulgham stated that there were other carports on the same block face as the subject property.

Commissioner Davila asked if there were any lawful carports in the area. Ms. Fulgham stated that there were not. Since this was a planned community, she stated, most houses are built at the setback line with little room to add an additional structure. She stated that based on the ordinance requirements, the only option here is to remove the carport if the variance is denied.

The public hearing was opened.

Mr. Andres Martinez, applicant, came forward to speak in favor of the request. He stated that he purchased the carport in 2001, and he has not heard one complaint about it until this year.

Ms. Jacqueline Rivera, 4103 Shawnee Circle, Bryan, came forward to speak in favor of the request. She stated that the neighbors are not bothered by the carport, it has existed on the site for eight years, and that another neighbor has purchased the house in full knowledge of the carport.

Responding to questions from Chairperson Clark, Ms. Rivera stated the neighborhood would not necessarily benefit from every house having a carport similar to the applicant's.

Commissioner Maxwell stated that this carport was brought to the attention of the City by citizen complaint. Ms. Rivera stated that she has 49 signatures of people in the area who are not opposed to the carport.

Ms. Jeanne Devlin, 3150 Finfeather Road, Bryan, came forward to ask if this property has any unique situation that would constitute an approval of the variance. Mr. Zimmermann stated that staff contends that this property is no different than any other property in the area, and staff is unable to identify any circumstances or conditions that make this a special case.

The public hearing was closed.

**Commissioner Beckendorf moved to deny Planning Variance PV 08-30, because strict compliance will not result in undue hardship, and in so moving adopt the written staff report and analysis as the findings of this Commission as well as the facts upon which those findings are based, with the understanding that such findings and facts will be entered into the official minutes of this Planning and Zoning Commission meeting. Commissioner Maxwell seconded the motion.**

Commissioner Beckendorf stated that issues such as this have come up on several occasions. He said that he has voted consistently on this issue and that is his reason for the motion for denial.

Commissioner Maxwell stated that he hopes the Commission will have another workshop session on carports and encroachments so that they can be consistent on this issue.

Commissioner Bond stated that he does not see a problem with this carport and that until the Commission has a better way of handling this situation, he will vote for the variance if there is no safety problem.

Commissioner Davila reiterated that the Commission needs to come to a conclusion about what needs to be done with these situations.

Chairperson Clark stated that he is sensitive to the fact that the applicant might have been misinformed, but that the Commission's job is to enforce the codes and statutes of the City. He also stated that the applicant has the right to appeal to City Council. He stated that he may have voted inconsistently on this issue, but that these situations are what variances are for.

The motion failed with a vote of three (3) in favor and five (5) in opposition. Commissioners Bond, Chavarria, Davila, Horton, and Jones cast the votes in opposition.

Commissioner Maxwell moved to approve Planning Variance PV 08-30, because strict compliance will result in undue hardship, and in so moving adopt the following findings and facts, with the understanding that such findings and facts will be entered into the official minutes of this Planning and Zoning Commission meeting:

that all of the following criteria, as required in Section 62-191 of the Bryan Code of Ordinances, have been met as enumerated below:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius) based on the following facts:
  - a. That the carport is back from the street and is an open structure;
2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property based on the following facts:
  - a. That it is a stand-alone structure and does not do visible harm to the other properties in the area; and
3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter based on the following facts:
  - a. The applicant might receive hail damage to his car, and the carport will keep his car cooler and make the paint last longer.

Commissioner Bond seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a vote of five (5) in favor and three (3) against. Commissioners Beckendorf, Clark, and Maxwell cast the votes in opposition.

*Commissioner Horton left the Council Chambers at 7:18 p.m. due to a conflict of interest, a quorum still being present.*

**8. Planning Variance PV08-32: Tammisha Farmer**

**R. Haynes**

*A request for approval of a 4.5-foot variance from the minimum 7.5-foot side building setback generally required on lots in residential zoning districts of Bryan, to legitimize previous construction of a carport that extends within 3 feet of the northwest (side) property line on property located at 910 South Gordon Street between East 33 Street and Woodland Drive, occupying the northeast 26.05 feet of Lot 13 and all of Lot 14 in Block 3 of Cavitt's Southmore Addition in Bryan, Brazos County, Texas.*

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends denying the request based on the following findings:

- Approving this request in the absence of any special circumstances relating to the size, shape, area, topography, surrounding conditions, or location of the property would set an unwanted precedent, and the existence of the unpermitted carport on the property at the time of purchase by the current owner does not constitute a special circumstance,
- Granting the side setback variance could have detrimental effect to the abutting properties, and
- There are benefits to be derived by the general public resulting from the observation of the setback standards, and modification or removal of the encroaching carport structure from the side setback area, in this particular case, will cause minimum hardship to the applicant.

Responding to a question from Commissioner Bond, Mr. Haynes stated that no name was available with the complaint about the property. He stated that only one complaint was received.

Responding to a question from Commissioner Davila, Mr. Haynes stated that it is a two-car carport, and that if the applicant would replace it with a single-car carport it would fall within the setback requirement.

Commissioner Maxwell observed that there are no existing structures on the adjoining property.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Bond moved to approve Planning Variance PV 08-32, because strict compliance will result in undue hardship, and in so moving adopt the following findings and facts, with the understanding that such findings and facts will be entered into the official minutes of this Planning and Zoning Commission meeting:**

**that all of the following criteria, as required in Section 62-191 of the Bryan Code of Ordinances, have been met as enumerated below:**

- 1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius) based on the following facts:**
  - a. The structure is not within the front building setback, which is 25 feet;**
- 2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property based on the following facts:**
  - a. The carport, being located on only one side of the house and there being sufficient room between the carport and the adjoining property; and**



3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter based on the following facts:

- a. The applicant bought this residence with the understanding that the structure was in compliance with the City and was unaware of any code violation, and for her to remove or rebuild this structure would constitute an undue hardship.

**Commissioner Maxwell seconded the motion.**

Commissioner Davila stated that because there are no structures on the adjoining lot, the variance would be appropriate in a situation such as this.

Commissioner Maxwell stated that he agreed with Commissioner Davila.

Chairperson Clark asked if there had been any comments from the residents who received notices about the variance. Mr. Haynes said there had not been any.

Commissioner Beckendorf stated that he votes consistently on front setbacks, but there is plenty of room on the side of the house where the carport exists.

Chairperson Clark stated that the issue with side setbacks is public safety from fire, but that problem does not exist here.

**The motion passed with a unanimous vote.**

*Commissioner Horton re-entered the Council Chambers at 7:31p.m.*

**9. Alley Abandonment AC08-04: Block 152 Bryan Original Townsite**

**R. Haynes**

*A request to abandon a 20-foot wide and 100-foot long segment of alley right-of-way in Block 152 of the Bryan Original Townsite extending north from West 14<sup>th</sup> Street between North Parker and North Sims Avenues in Bryan, Brazos County, Texas.*

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approving the request based on the following findings:

- Approving this request will relive the public from continued responsibility for this right-of-way segment and allow the proposed redevelopment to proceed,
- Abandoning the subject right-of-way, as recommended, will allow this land to be integrated with adjacent lots, and
- The recommended rearrangement of land now within this alley right-of-way is believed to have the most likely long-range public benefit.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Chavarria moved to recommend approval of Alley Abandonment AC 08-04 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Beckendorf seconded the motion.**

Chairperson Clark asked if there was any discussion. There was none.

**The motion passed with a unanimous vote.**

## **10. ADJOURN**

Without objection, Chairperson Clark adjourned the meeting at 7:34 p.m.

These minutes were reviewed and approved by the City of Bryan Planning & Zoning Commission on the 6<sup>th</sup> day of **November, 2008**.

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John R. Clark, Chairperson  
Planning and Zoning Commission  
City of Bryan, Texas

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Martin Zimmermann, Planning Administrator  
and Secretary to the Planning and Zoning  
Commission